

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 7. Mediation Questionnaire

Instructions for this form: <https://www.ca9.uscourts.gov/forms/form07instructions.pdf>

9th Cir. Case Number(s)	23-35468
Case Name	Bungie, Inc. v. Aimjunkies.com, et al
Counsel submitting this form	Philip P. Mann, Mann Law Group PLLC
Represented party/parties	Aimjunkies. com, Phoenix Digital Group LLC, Jeffrey Conway, David Schaefer, Jordan Green,

Briefly describe the dispute that gave rise to this lawsuit.

Accusation by Bungie, Inc. that defendants distribution of so-called "cheat software" that enables players to enhance performance in playing computer games infringed supposed intellectual property rights of game distributor, Bungie, Inc.

Briefly describe the result below and the main issues on appeal.

Following arbitration, JAMS Arbitrator, Judge Ronald Cox (Ret.) ruled in favor of Bungie and awarded Bungie \$4.3 Million. During the arbitration hearing, Judge Cox, in direct violation of JAMS' own published rules, declined to permit Appellants to use deposition testimony of a Bungie witness in cross-examination of that Bungie witness.

Over Appellants' objections, District Judge Thomas S. Zilly of the Western District of Washington in Seattle, asserted jurisdiction to hear both Bungie's motion to confirm the arbitration award and to decide Appellants' challenge to the arbitration award.

Over Appellants' objections, District Judge Zilly confirmed the arbitration award.

The issues on appeal are (1), did Judge Zilly improperly assume jurisdiction in violation of the principles established by the Supreme Court in *Badgerow v. Walters*, 142 S. Ct. 1310 (2022), and (2) Did Judge Zilly err in concluding that Judge Cox did not violate JAMS' clear rules by refusing to permit cross-examination of a key witness based on prior inconsistent statements made by that key witness in earlier deposition testimony by that witness.

Describe any proceedings remaining below or any related proceedings in other tribunals.

A claim for copyright infringement and trademark infringement by Bungie, Inc., against all Appellants remains pending before Judge Zilly in the Western District of Washington in Seattle under Case No. 2:21-cv-811-TSZ.

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)